

Northwest HOA Law Center Quick Guide

HOA Governing Document Hierarchy

OREGON

US CONSTITUTION

The document against which all legal matters in the United States is judged

FEDERAL LAW

Such as the Fair Housing Act of 1985, and rules promulgated thereunder

STATE CONSTITUTION

Since homeowner associations are created pursuant to state statutes, the state constitution is the document against which all state statutes are tested

STATE LAWS

ORS 94.550-94.783 – Oregon Planned Community Act ORS Chapter 100 – Oregon Condominium Act
ORS Chapter 65 – Oregon Nonprofit Corporation Act

Generally, the Oregon Planned Community Act and the Oregon Condominium Act will govern interpretation of the other project documents. However, in some cases the Acts specifically defer to the declaration and bylaws. Counsel should be consulted before conclusions are drawn about those conflicts. Pursuant to ORS 100.100 and 94.770, the Oregon Planned Community Act and Oregon Condominium Act will trump the Oregon Nonprofit Corporation Act in the event of an inconsistency.

PLAT (Condo or Subdivision)

The plat (and floor plans for older condominiums) define physical boundaries and may contain language about who is responsible for maintaining particular portions of the real property

COUNTY AND CITY ORDINANCES

Zoning codes, conduct codes and development codes are the most common types of ordinances applicable to HOAs. Often an individual ordinance is passed in connection with a specific development. These must be understood and reviewed by the homeowner association. If a restriction of the homeowner association is more restrictive than the municipal code, the HOA restriction will apply

DECLARATION (CCRs, Master Deed, etc.)

The declaration is the document that defines the rights and liabilities of each owner. The declaration, like the plat, is recorded in the property records of county where the property is located

DEED (Unit or Lot)

The deed to the individual unit or lot may contain language which supplements the declaration as to that unit or lot in terms of the rights and liabilities of the owner of the unit or lot

ARTICLES OF INCORPORATION

While not always a legal requirement, HOAs should be incorporated to limit the liability of any individual owner. In Oregon, the articles of incorporation merely bring the corporation into existence

BYLAWS

The document which governs the administration and management of the HOA. In the Bylaws we find out how people may vote, whereas in the declaration we find out who may vote

PROPERLY ADOPTED AND COMMUNICATED RULES, REGULATIONS, RESOLUTIONS, ETC.

Subject to all other documents, properly adopted rules (when published to the owners) are binding